

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DOUGLAS W. BRYANT)	
)	
COMPLAINANT)	
)	
v.)	CASE NO. 96-188
)	
NORTHERN KENTUCKY WATER DISTRICT)	
)	
DEFENDANT)	

O R D E R

Douglas W. Bryant has brought a formal complaint against Northern Kentucky Water District ("the District").¹ He seeks an Order directing the District to provide water service to his residence directly through a 20-inch concrete water transmission main. His complaint poses the following issue: Given the dangers associated with tapping a 20-inch concrete transmission main, is the requested extension reasonable? Finding in the negative, we deny the complaint.

PROCEDURE

Bryant filed his complaint with the Commission on April 15, 1996. Finding that the complaint established a prima facie case, the Commission ordered the District to satisfy or answer the complaint. On June 10, 1996, the District answered the complaint.

¹ Bryant brought his complaint against Kenton County Water District No. 1. Since the filing of the complaint, Kenton County Water District No. 1 has merged with Campbell County Kentucky Water District and formed the Northern Kentucky Water District.

Following limited discovery, the Commission held a hearing in this matter on September 4, 1996. Subsequently the District moved to hold this case open generally and Bryant moved to submit this matter for decision. This Order renders both motions moot.

STATEMENT OF FACTS

Douglas Bryant resides at 1719 Highwater Road in an unincorporated area of Kenton County, immediately adjacent to Bromley, Kentucky. Bryant's residence sits within 100 feet of a 20-inch concrete transmission main which the District owns and operates and an 8-inch water main which the City of Bromley owns and operates. Despite its close proximity to these water mains, Bryant's residence currently receives its water through a cistern system.

Neither the City of Bromley nor the District provides Bryant with water service. Under the terms of a 1990 city ordinance, Bromley is prohibited from providing water service to non-residents. The City of Bromley has conditioned the provision of such service upon Bryant's agreement to its annexation of his property. Bryant refuses water service on such terms.

In 1994 Bryant tapped into Bromley's 8-inch water main without permission. The City brought criminal charges against Bryant for theft of service.² While Bryant has offered to pay for all service and connection fees, Bromley refuses to dismiss the

² Commonwealth v. Douglas W. Bryant, No. 96-M-0259 (Kenton Dist. Ct.).

criminal charges. In response, Bryant has brought legal action against Bromley in which he alleges violations of his civil rights.³ Both actions are still pending.

Bryant has also requested water service from the District. His residence lies within the District's boundaries. The District offered two alternatives for providing service. Under the first alternative, the District would assume operational control of the City of Bromley's 8-inch water main and responsibility for its operation and maintenance. Customers who are located within Bromley and are served from this main would continue to be Bromley's customers. Those who lived outside Bromley's boundaries would be considered the District's customers. As of this date, Bromley has refused the District's offer.

Under its second alternative, the District would construct an 8-inch main extension to its 20-inch concrete transmission main. This extension would serve Bryant's residence and nine other residences which are located on the southern side of Highwater Road. Total estimated cost of this alternative is \$132,595 or \$14,733 per residence. Under the District's tariff, all persons whose property benefits from the extension are assessed a pro rata portion of the extension's cost.

Proposing a third option, Bryant requests that the District construct a 2-inch tap into its 20-inch concrete transmission main which runs parallel to his property and a 2-inch service line from that main to his property to provide water service. He states that this method is the most economical and poses no risk to the District's facilities. In

³ Bryant v. City of Bromley, No. 96-CI-01349 (Kenton Circuit Ct.) (filed Jul. 17, 1996). This action was subsequently removed to federal court. Bryant v. City of Bromley, No. 96-172 (E.D. Ky.) (removed Aug. 13, 1996).

support of his position, he has produced statements from a prestressed concrete pipe manufacturer which assert that tapping such lines is a relatively simple and inexpensive task and will not harm the pipe's integrity.⁴

The 20-inch concrete transmission main in question is a prestressed reinforced concrete pipe which was installed in 1967.⁵ It has a concrete core casted inside a steel cylinder. This steel cylinder is wrapped with high strength prestressed wiring. The pipe and wiring is covered by a cement-rich mortar coating. The concrete provides the pipe with the structural strength and rigidity necessary to withstand heavy external loads, as well as a smooth interior wall for optimum water flow. The prestressed wiring enables the pipe to withstand high internal water pressures. The cement-rich mortar protects the wiring and the steel pipe from corrosion.⁶

The main, which was installed in 1967, currently serves only a transmission function. It is not used to distribute water directly to District customers, but to smaller mains which are connected to customer service lines. District policy has been to restrict its use of concrete mains to transmission purposes and to avoid any service line

⁴ Letter from Donald J. Lamanna, Cretex Pressure Pipe, Inc., to Douglas Bryant of April 17, 1996; Letter from Donald J. Lamanna, Cretex Presssure Pipe, Inc., to Douglas Bryant of April 22, 1996. Copies of these letters are attached to Bryant's Complaint.

⁵ Transcript at 76.

⁶ Id. at 77.

connection to these mains.⁷ District officials testified that they lack the technical expertise and equipment to make such taps.⁸

District officials testified that a 2-inch service line tap would threaten the structural integrity of the 20-inch concrete main. To make such a tap, a section of the main's mortar covering must be chipped away. One or more of the strands of the prestressed wiring may also be cut. As a result of cutting the wires, the stress on the wiring is reduced and the structural integrity of the pipe is weakened. Even though the mortar covering is replaced, the potential for the cracking increases as does the potential for outside water to reach and corrode the steel piping and wiring.

District officials also testified that service taps to the 20-inch concrete transmission main would increase the potential for service disruptions from local excavation. If the water service leading from the main to a residence is pulled from the main, the 20-inch concrete transmission line must be shut down. Such a shut down would interrupt water service to several thousand customers.

District officials testified that the use of an 8-inch main extension not only avoids the structural problems associated with a single service tap, but the problems which other requests for service present. If the Commission requires a 2-inch tap to the concrete transmission main for Bryant, District officials argued, it must also permit individual taps for the other nine residences located on the south side of Highwater Road. The additional taps would further increase the risk to the concrete main's

⁷ Id. at 91.

⁸ Id. at 95.

structural integrity. With an 8-inch main, all service line taps would be made to the 8-inch main and not the 20-inch concrete main.

DISCUSSION

The District is a water district subject to the provisions of KRS Chapters 74 and 278. It has established boundaries and must make reasonable extensions of its services to all persons within those established boundaries. 64 Am. Jur. 2d Public Utilities §268 (1972). This Commission, moreover, has the authority to compel reasonable extensions of service upon a complaint by an applicant for such service. KRS 278.280(3).

As the property for which Bryant seeks water service is within the District's service territory, the only issue before this Commission is whether his requested extension is reasonable. Our regulations offer no guidance. Administrative Regulation 807 KAR 5:066, Section 11, provides the general rules for extensions of water service. This regulation, however, deals only with the extension of a distribution main. Commission regulations define a "distribution main" as "a line from which service connections with customers are taken at frequent intervals." 807 KAR 5:066, Section 1(2). No customers are directly served from the 20-inch main and none have been served from that main since its installation in 1967. The 20-inch concrete main clearly is a "transmission main" which Commission regulations define as "a line which is used for conveying water to the distribution system, reservoirs, tanks or stand pipes, and has generally no service connections with customers." 807 KAR 5:066, Section 1(8).

Based upon the evidence of record, we conclude that Complainant's requested extension is not reasonable and should be denied. In the short run, Complainant's

proposed extension is the least expensive of the three alternatives. In the long term, however, it poses the greatest risk to the continuity of service. The 20-inch concrete transmission main is not intended for use as a distribution main. Allowing a tap for a two-inch service would threaten the structural integrity of the main. It would significantly increase the risk of corrosion of the prestressed wiring and steel cylinder components of the main. The tap will likely weaken the prestressed wiring on a portion of the main and lessen the main's ability to withstand high water pressures. Since the 20-inch concrete transmission main provides water to several thousand customers, any repairs required by the proposed tap would leave these customers without water service.

While the requested extension is unreasonable, the District's obligation to undertake all reasonable efforts to provide Bryant with service remains. Bryant is located within the District's service territory and the District has a legal obligation to extend service to him consistent with the provisions of its tariff. Either District proposal will meet this obligation. The Commission finds that the District should review its two proposals for providing service and determine which is most feasible. After obtaining Bryant's concurrence with its findings, the District should move to implement the most feasible proposal. If these alternatives are unacceptable to the Complainant, then he retains the option of accepting service from Bromley under its terms.

SUMMARY

Having considered the evidence of record and being otherwise sufficiently advised, the Commission HEREBY ORDERS that:

1. Complainant's request that the District provide water service to him through a two-inch service line connected directly to its 20-inch concrete transmission main is denied.

2. The District shall provide water service to Bryant under either of the two proposals which it previously presented. Costs for such extension shall be apportioned in accordance with Administrative Regulation 807 KAR 5:066, Section 11 and the District's filed tariff.


3. Within 30 days of the date of this Order, the District shall submit a written report to the Commission which identifies the proposal that is most feasible. This report shall also identify the Complainant's preference on the two proposals and list all actions which the District has taken to provide service to the Complainant.

Done at Frankfort, Kentucky, this 21st day of April, 1997.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director